IN THE UNITED STATES BANKRUPTCY COURT MIDDLE DISTRICT OF NORTH CAROLINA DURHAM DIVISION

IN RE:	
EARL M. RILEY AND VERLINE B. RILEY	CASE NO. 07-81258
Debtors.	CHAPTER 13
EARL M. RILEY AND VERLINE B. RILEY, Plaintiffs, v. US BANK CONSUMER FINANCE Defendant.)))))) ADVERSARY PROCEEDING) NO. 09-09013)))

ANSWER OF US BANK CONSUMER FINANCE

Now comes US Bank Consumer Finance (US Bank) and answers the Complaint (Complaint) filed by Earl Riley and Verline Riley (Plaintiffs) by alleging as follows:

- 1. Admitted.
- 2. Admitted, upon information and belief.
- 3. Admitted, upon information and belief.
- 4. Admitted.
- 5. Admitted, upon information and belief.
- 6. Admitted.
- 7. Admitted
- 8. Denied.

9. Denied.

FIRST AFFIRMATIVE DEFENSE

The Plaintiffs have failed to state a valid claim upon which relief may be granted and

Defendant is entitled to dismissal of this action pursuant to Rule 12(b)(6) of the Federal Rules of

Civil Procedure as incorporated through Rule 7012(b) of the Federal Rules of Bankruptcy

Procedure.

SECOND AFFIRMATIVE DEFENSE

Pursuant to 11 U.S.C.§ 1322(b)(2), the Plaintiff is prohibited from avoiding Defendant's

lien and must pay the Defendant's claim according to its contractual terms.

THIRD AFFIRMATIVE DEFENSE

US Bank reserves the right to assert all other affirmative defenses to the Complaint

that are unknown at this time but that may be discovered during the course of this lawsuit.

Wherefore, US Bank prays for the court to grant the following relief:

1. To dismiss the Complaint with prejudice;

2. To deny recovery by the Plaintiffs from Defendant US Bank;

3. To tax the costs of the action against the Plaintiffs; and

4. To grant such other and further relief as the court deems just and proper.

Dated this 21st day of May, 2009.

By: s/ Kristin Decker Ogburn

Kristin Decker Ogburn

North Carolina State Bar No. 20506

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CERTIFICATE OF SERVICE

This is to certify that the foregoing Answer of US Bank Consumer Finance was served upon the following parties by depositing copies of same in the United States mail, first-class postage prepaid addressed as follows:

Earl and Verline Riley 307 Ebon Road Durham, NC 27713

Edward Charles Boltz Attorney for Plaintiffs 1738-D Hillandale Rd. Durham, NC 27705

Richard M. Hutson, II Chapter 13 Office PO Box 3613 Durham, NC 27702

Dated this 21st day of May, 2009

s/ <u>Kristin Decker Ogburn</u> Kristin Decker Ogburn Attorney for US Bank Consumer Finance